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Kathleen Q. Abernathy
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EX PARTE OR LATE FILED

November 9, 1995

EX PARTE

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

RE: PR Docket 93-61, Automatic Vehicle Monitoring Systems

Dear Mr. Caton:

On Wednesday, November 8, 1995, I, on behalf of AirTouch Teletrac, and David Hilliard on behalf of PinPoint Communications, Inc., met with David Furth, Legal Advisor to Commissioner Chong, to discuss the above-referenced proceeding. The attached previously filed Ex Parte materials were referenced in the discussion.

Two copies of this notice were submitted to the Secretary of the FCC in accordance with Section 1.1206(a)(1) of the Commission's Rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me at 202-293-4960 should you have any questions or require additional information concerning this matter.

Sincerely,

A handwritten signature in black ink that reads "Kathleen Q. Abernathy". The signature is fluid and cursive, with the first name "Kathleen" being more prominent.

Kathleen Q. Abernathy

cc: David Furth

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DUPLICATE

August 22, 1995

Ms. Rosalind K. Allen
Chief, Licensing Division
Wireless Telecommunications Bureau
Federal Communications Bureau
2025 M Street, NW
Washington, DC 20554

Re: *Ex Parte*
PR Docket No. 93-61
FCC Partial Reconsideration - Grandfathering Issues

Dear Ms. Allen:

On July 26, 1995, representatives of AirTouch Teletrac (Teletrac), MobileVision, and Pinpoint Communications, Inc. (Pinpoint) met with you and your staff to discuss their concerns about the emission mask adopted for multilateration Location and Monitoring Services ("LMS") systems in the FCC's *Report and Order* in the above-referenced docket. In light of the prospect for a partial reconsideration order in September 1995 disposing of certain grandfathering issues, this letter is being filed to reiterate the continuing concerns of these parties, and Uniplex Corporation (Uniplex) (collectively, the "LMS Providers") regarding the mask and other issues that affect grandfathered multilateration LMS systems: namely type acceptance requirements, the restrictions on relocation of licensed sites, and the Part 15 industry's call for testing of grandfathered systems. The position of the LMS providers on each of these issues is outlined below.

OUT-OF-BAND EMISSIONS

As stated in the petitions for reconsideration of the *Report and Order* filed by the LMS Providers and the July 26 *ex parte* of Teletrac, MobileVision, and Pinpoint, the new rule regarding out-of-band emissions is flawed and makes multilateration LMS impractical and economically unattractive. The rule change recommended by the LMS Providers (see the attached from the July 26, 1995, *ex parte*) strikes a compromise between relaxed skirts and greater maximum attenuation. The resulting energy close to the authorized bandwidth is far less than the noise unlicensed devices may cause.

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Therefore, the LMS Providers believe the rule change they recommend is in the public interest and is a reasonable approach to shared use in the 902-928 MHz ISM band.

TYPE ACCEPTANCE

Type Acceptance should be implemented in steps that allow the LMS Providers to comply with the rules, complete construction of grandfathered licenses, and provide needed services in a reasonable time frame. The initial emphasis for the LMS providers under the new rules must be on the preservation of grandfathered status through the construction of systems that meet the FCC's technical requirements. Formal compliance with type acceptance or other equipment authorization requirements should assume a lesser priority. Provided that the Commission adopts in the near future the out-of-band emission requirements proposed by the LMS Providers, these firms expect to place compliant equipment in the field on or before April 1, 1996.

For Systems Constructed After February 3, 1995:

The LMS Providers request that any type acceptance requirement for multilateration LMS be extended from the current date of April 1, 1996, until 12 months after any rule on reconsideration concerning the emission mask, (the "1996 Effective Date"). This change will allow LMS Providers to complete construction of their systems and comply with the type acceptance rules in a reasonable time frame.

All multilateration LMS transmitters imported or *manufactured domestically* prior to the 1996 Effective Date should be exempt from type acceptance regardless of whether they are used before or after the 1996 Effective Date. Such equipment will be capable, however, of complying with the emission mask requirements as proposed by the LMS Providers as of April 1, 1996. The Commission also should clarify that LMS Providers may indefinitely continue to use equipment deployed prior to the 1996 Effective Date provided that it is not marketed after that Date (whether the deadline is April 1, 1996 or a later date), unless the equipment is first type accepted. Non-type accepted equipment properly used in any system after the 1996 Effective Date (whether April 1, 1996, or a later date) should be subject to replacement with type-accepted equipment if such a step is necessary in order to resolve interference problems that cannot otherwise be accommodated..

For Systems Constructed Before February 3, 1995:

The installation of non-type accepted multilateration LMS transmitters imported or manufactured domestically on or before the 1996 Effective Date, should be permitted through April 1, 1998, for systems that were constructed and placed into operation before February 3, 1995. Such equipment need not be type-accepted at any time unless

Ms. Rosalind K. Allen

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such a step is necessary in order to resolve interference problems that cannot otherwise be accommodated, but such equipment must comply with the emission mask requirements by April 1, 1998. For systems constructed and placed into operation before February 3, 1995, transmitters imported or manufactured *after* the 1996 Effective Date must be type accepted.

2 km SITE LOCATION RESTRICTION

The LMS Providers find the current 2 km distance restriction on replacement site locations to be unworkable. The 2 km restriction is particularly acute due to the upcoming April 1, 1996, deadline for preserving grandfathering status. Unfortunately, competition for wireless facilities has resulted in many sites becoming unavailable or unsuitable for LMS use. The protracted uncertainty associated with this proceeding and the pending reconsideration have resulted in delays that exacerbated the problem of site availability.

Site surveys and negotiations are time-consuming and the LMS Providers are finding that, in a substantial number of cases, suitable and available existing replacements cannot be identified within the 2 km radius prescribed by the new rule.

Given that the average operational radius of the various LMS Providers is between 5 and 20 miles, the LMS Providers propose that the FCC allow replacement sites within a radius of 10 miles.

By making this proposal, the LMS Providers, neither individually nor as a group, intend to abandon or prejudice the Commission's consideration of the proposals of several of the LMS providers (MobileVision, Pinpoint, SBMS, and Uniplex) that the FCC change the rules to allow grandfathered licensees the flexibility to add sites in addition to the number for which they had received authorization as of February 3, 1995. The LMS Providers recognize that the Commission will need to deal with these aspects of grandfathered systems in a later order than the one expected in the September time frame.

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PART 15 TESTING

The Part 15 industry argues that grandfathered multilateration LMS systems should be required to demonstrate through testing that such LMS systems will not cause unacceptable interference to Part 15 devices. Such testing for grandfathered systems will merely delay or stop the deployment of LMS systems by providers that have existing technology and is neither necessary nor fair. The grandfathered licensees have all been properly authorized and provisions for such testing are not in the Commission's rules at this time. Moreover, the data collected and presented in the record of this proceeding prove interference to Part 15 by multilateration LMS systems is far less likely than is suggested by the Part 15 Coalition. Accordingly, the Part 15 industry's proposal to expand the applicability of the testing requirement should not be adopted.

If there are any questions concerning the positions of the LMS Providers on the grandfathering issues discussed herein, please do not hesitate to contact the undersigned.

Two copies of this written *ex parte* presentation are being filed with the Secretary as required by Section 1.1206 of the FCC's Rules.

Respectfully submitted,

Uniplex Corporation

~~MacNeil Bryan, President~~

William W. Mulholland

Ex. V.P.

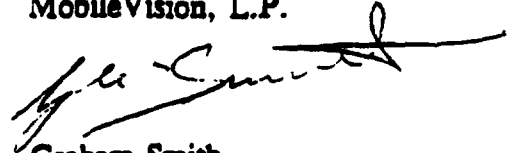
08/21/95 11:53 FAX 407 241 7366

METS INC

0002/002

Respectfully submitted,

MobileVision, L.P.

A handwritten signature in black ink, appearing to read "G. Smith", written over a horizontal line.

Graham Smith
Director, Systems Design

Aug. 31, 1995

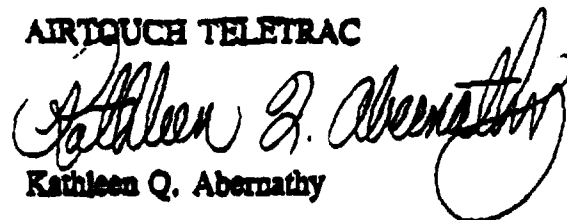
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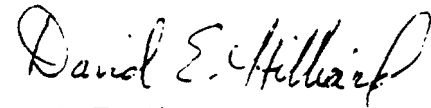
Respectfully submitted,

AIRTOUCH TELETRAC

A handwritten signature in cursive script, appearing to read "Kathleen Q. Abernathy". The signature is written in dark ink and is positioned above the printed name.

Kathleen Q. Abernathy

Respectfully submitted,

A handwritten signature in cursive script, reading "David E. Hilliard".

David E. Hilliard
Wiley, Rein & Fielding
Attorneys for Pinpoint
Communications, Inc.

Attachment

cc: Mr. B.C. Jackson, Jr.
Ibn Spicer, Esq.

Mailing Addresses:

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Washington, DC 20006**

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**Mr. McNeil Bryan
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**Mr. Graham Smith
Director, Systems Design
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1225 Broken Sound Parkway
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August 29, 1995

EX PARTE

William F. Caton
Acting Secretary
1919 M Street NW, Room 222
Washington, D.C. 20554
Federal Communications Commission

Re: PR Docket No. 93-61

Dear Mr. Caton:

On August 29, 1995, the attached summary of the Part 15 Coalition's position regarding proposed clarifications of the Report and Order in this proceeding was sent to the persons listed below. In accordance with Section 1.1206(a)(1) of the Commission's Rules, two copies of this letter, along with the attached summary, are being filed with the Secretary's Office.

Sincerely,


Henrietta Wright

cc: The Hon. Reed E. Hundt
The Hon. James H. Quello
The Hon. Andrew C. Barrett
The Hon. Rachelle B. Chong
The Hon. Susan Ness
Rosalind K. Allen
Michael J. Marcus
Richard B. Engleman

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August 29, 1995

EX PARTE

Rosalind K. Allen
Acting Chief, Commercial Radio Division,
Wireless Technologies Bureau
Federal Communications Commission
Washington, D.C. 20554

Re: PR Docket No. 93-61

Dear Ms. Allen:

You have asked the Part 15 Coalition (the "Coalition") to respond to the request for clarification of the Report and Order in the above-referenced proceeding made by various Location and Monitoring Service (LMS) proponents. See Ex Parte Letter from David E. Hilliard to William F. Caton, (filed July 26, 1995) (requesting clarification regarding the emissions mask requirement filed on behalf of AirTouch Teletrac, MobileVision, L.P., PentaPage, and Pinpoint Communications, Inc.), and Ex Parte Letter from David Hilliard to William F. Caton (filed Aug. 21, 1995) (presenting Amtech's position that LMS order should be clarified by allowing the qualified use of non-type accepted equipment, revising the frequency tolerance rules, and revising the restrictions on out-of-band emissions for non-multilateration LMS systems).

The Coalition agrees that clarification of the Report and Order is necessary. Under the grandfathering rules adopted in the Report and Order, the LMS companies have applied for modified LMS licenses covering the major metropolitan areas across the country. The construction deadline next spring applicable to these grandfathered licensees requires that LMS systems must be designed and built out right now.¹ However, due to the complexity of the issues raised in the petitions for reconsideration, and the number of parties participating in the proceeding, it is likely that a decision on reconsideration in this matter will not be reached for several months. Thus, it is important that, in the interim, the rules applicable to grandfathered systems are clarified before these systems become operational.

Although the Coalition agrees that clarification of the rules is necessary as an interim matter while reconsideration is pending and grandfathered stations are being constructed, the need for clarification is not limited to the emissions mask or frequency tolerance requirements².

¹ Additionally, there is a category of grandfathered licenses which, if already constructed and placed in operation by February 3, 1995, is allowed to continue to operate those systems until April 1998.

² The Part 15 Coalition would like to make two points relating to the emissions mask issue: (1) the request from the LMS proponents is really not a request for clarification because the Rule is very clear -- what is requested is a rule change; (2) Parties commented on this issue in Oppositions to Petitions For

There are four additional issues raised by the Report and Order that must be clarified so that grandfathered systems are constructed in accordance with the new rules. For the few systems that are already constructed, clarifying that they are subject to the new rules in these instances, which do not involve change of bands utilized, would not be an undue hardship.

First, the Commission should clarify that devices operating in accordance with the criteria in the new Section 90.361 are presumed conclusively *not* to cause harmful interference to LMS systems grandfathered under Section 90.363, whether constructed as of February 3, 1995, or not. No rationale has been offered that justifies excluding grandfathered LMS systems from these provisions. Indeed, the most immediate need for protection against claims of interference is from grandfathered LMS licensees, as rapid build-out can be expected by operators attempting to satisfy the new construction requirements

Second, in order to provide a check on the deployment of LMS systems that cause unacceptable levels of interference to Part 15 technologies, the field tests that are required under the rules must be made expressly applicable to grandfathered systems. There is no reason to allow new systems to be constructed and operated until April 1998 under circumstances that would not be acceptable for the newly-auctioned MTA systems.³ In addition, the testing rules should be clarified so as to include procedures that will ensure that test parameters are reasonably uniform and that the testing covers a reliable sample of Part 15 technologies available in the marketplace. If necessary, the actual procedures could be determined in the reconsideration order, and these procedures are not necessary in order for an LMS system to comply with the April 1, 1996 construction deadline. The Commission can count on the Part 15 Coalition's full cooperation in developing and administering these tests.

Third, the Commission should clarify that the power limits of § 90.205 apply to grandfathered LMS systems, including those employing wideband forward links.⁴

Fourth, the FCC should clarify in § 90.353 of the rules that LMS is a restricted service and not a general messaging service. In this regard, it should also clarify that it intends the LMS providers' authority to interconnect to the Public Switched Network to be strictly limited to

Reconsideration (see, e.g., Oppositions of the Part 15 Coalition, TIA, and Metricom) and although the Coalition may not be opposed to change in the emissions mask rule, it does not believe that adequate rationale for modification of the Rule has been provided; in addition, if another Part 90 or Part 94 standard is adopted, such standard should be adopted entirely, without modification, to assure the "cleanest" possible band.

With respect to the out of band emissions issue raised by Amtech, the Coalition notes that there are very strict limitations on out of band emissions for the 902-928 MHz band (see, e.g., §§ 15.209) because such emissions fall within certain restricted bands of operation. In addition, the Amtech formula for out of band emissions, as presented in the *ex parte* filing, is meaningless because it fails to provide sufficient information. For example, Amtech does not specify in the formula whether (P) is in watts or milliwatts, and nor does it specify the measurement bandwidth.

³ This is especially important if LMS systems are using a wideband forward link, with which Part 15 companies have not had field experience, but which has the most serious potential for causing interference.

⁴ The Coalition continues to urge the FCC on reconsideration to prohibit wideband forward links entirely, as no need for them ever has been established and they pose potential interference problems for Part 15 technologies.

"true" emergencies (with the responsibility on the service providers for user compliance, as indicated in ¶ 23 of the Report and Order), and to store-and-forward service that is not a substitute for real-time interconnected service. To the extent that the Commission will have to work out additional technical details to enforce this provision as suggested in the Coalition's Petition for Reconsideration, it should clarify to the LMS companies that it is contemplating doing so.

In short, the FCC should not grant any of the pending applications for modified licenses of the multilateration LMS companies until it determines how the above four issues apply to that important group of licensees. Although there remain other issues to be dealt with on Reconsideration, the Commission staff seems confident that these issues will be resolved before LMS systems become operational, and that they need not be dealt with in the proposed clarification. In that case, it is important that any modified licenses granted state on their face that the authority granted therein is subject to revision pending resolution of the Petitions for Reconsideration. Such clarification will serve to assist LMS operators in designing and building their systems, while minimizing the chances of investment in facilities that would not comply with final Rules.

Respectfully,



Henrietta Wright
Attorney for The Part 15 Coalition

cc: The Hon. Reed E. Hundt
The Hon. James H. Quello
The Hon. Andrew C. Barrett
The Hon. Rachelle B. Chong
The Hon. Susan Ness
Michael J. Marcus
Richard B. Engleman